

History of regulations

Section 305(b) of the Clean Water Act requires that all waters within each state be assessed on a regular basis to determine whether they meet water quality standards. The Minnesota Pollution Control Agency (MPCA) must issue a 305(b) Report on a biennial basis identifying those waters that have been assessed and whether they are able to meet beneficial uses, such as swimming and fishing. Section 305(b) Reports have been issued by the State of Minnesota since 1984. By gathering this information over a period of years, the Environmental Protection Agency (EPA) and the states can see trends, set priorities, and evaluate the success of programs, and report on accomplishments in a meaningful and informed way.

The Clean Water Act of 1972 also established the Total Maximum Daily Load (TMDL) program under Section 303. EPA did not issue its first impaired waters regulations until 1985. Revisions to the regulations were made in 1992. Under Section 303(d), states are required to create a list of waters that do not meet or are not expected to meet water quality standards or their beneficial uses. Once a list has been created, states must prioritize all impaired waters for restoration and submit that list to the EPA for approval. EPA regulations require that states develop a TMDL for each waterbody and each impairment on the 303(d) list.

Although the federal Clean Water Act has required development of TMDLs for many years, little action was taken to implement this part of the act. Because of this, environmental organizations and citizen groups sued EPA and various states, demanding implementation of these regulations. As a result, a concerted effort has since been made by EPA and states to direct staff and new resources to the implementation of the TMDL program.

Current status

EPA regulations require each state to address impaired waters according to the following steps:

1. Designate uses for waters of the state and set standards or pollution limits to protect those uses.
2. Collect water quality data to assess whether waterbodies meet the water quality standards established for their designated uses (e.g., swimming, fishing, industrial uses, etc.). The assessment of Minnesota's rivers, streams, and lakes is tied to the 1972 CWA goals for restoring and protecting America's waters to benefit fish and wildlife, while providing for recreation wherever possible. These goals are commonly referred to as the "swimmable and fishable" goals of the Clean Water Act.
3. Develop and gain EPA approval for a list of impaired waters in Minnesota (those that do not meet their beneficial uses). The MPCA must develop this list every two years.

A state's impaired waters list is then used to prioritize federal funding and action plans for restoring those waters so they meet water quality standards.

4. Conduct TMDL Studies (within 15 years following EPA approval of the initial listing of an impaired water) to evaluate why impaired waters are not meeting standards. Set pollution-reduction goals for the sources of pollution causing impairments, with the aim of restoring them to their designated/beneficial uses.
5. Using authorities provided by the National Pollutant Discharge Elimination System (NPDES) Program, implement point source pollution reductions needed to achieve water quality standards and restore impaired waters to designated uses.

There are several ways that TMDLs can be developed to meet federal mandates. In some cases, local sponsors may decide to take responsibility for initiating and managing the development of the TMDL for their impaired water. In other cases, local governments may determine that they do not have the technical capabilities or other resources to take on a TMDL project. In those cases, MPCA staff may choose to manage the project or may approach another local government organization to manage it instead.

The TMDL process is not competitive. When determining priority waters for funding and technical support, MPCA creates its list by considering the insights and comments of a number of stakeholder organizations.

Purpose of training

This MPCA training program is intended to provide guidance and information to local units of government that wish to take the lead on developing and implementing the TMDL for their impaired waters. This manual attempts to bring together numerous pieces of information and guidance materials in one document.