



ENVIRONMENTAL LAW INSTITUTE®

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

THE TMDL PROGRAM IN TRANSITION

The NPS Problem: Designing TMDLs for Implementation

National Conservation Training Center
Shepherdstown, West Virginia
May 27-28, 2009

WORKSHOP AGENDA (WITH VISION, GOALS, & OUTPUTS)

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



VISION FOR THE WORKSHOP

To provide an opportunity for State TMDL Program participants to learn about—and to discuss with one another and with State and federal counterparts—specific, concrete opportunities for improving all aspects of how State TMDL Programs address impairments resulting at least in part from nonpoint sources.

GOALS

- Identify current best practices in the **development and implementation of “value-added” TMDLs** that effectively address impairments resulting from nonpoint sources of pollution due to agriculture, forestry, and urban runoff.
- Identify and propose solutions with respect to **gaps and barriers in legal and policy authorities** that hinder the ability of State TMDL Programs to effectively address impairments resulting from nonpoint sources.
- Identify **opportunities and obstacles with respect to communication and coordination** among State agencies, and between State and federal agencies, exercising authority over issues pertaining to nonpoint source pollution.
- Identify **opportunities for improving public education** on impairments resulting from nonpoint sources and for **enhancing engagement between State TMDL Programs and stakeholders**.
- Identify approaches for **effectively leveraging and prioritizing existing funds** for the purpose of addressing waters impaired by nonpoint sources.

OUTPUTS

No. 1: A “cookbook” of NPS strategies available to State TMDL Programs—a compilation of tools (including, where available, steps and stages) that States have used to more effectively implement their TMDL Programs with respect to nonpoint sources.

No. 2: A document that captures specific ideas from participants (including consensus language, if any) for changes in TMDL Program policy aimed at improving efforts to address nonpoint source pollution.

AGENDA

Tuesday, May 26

Arrival, Check-In, & Registration

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| 3:00 pm – 8:00 pm | NCTC Check-In and 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 Reception Guest Lodge Lounge Area |

Wednesday, May 27

***TMDL Program in Transition: The NPS Problem
Day 1***

6:30 am – 8:00 am

Breakfast (Open)
Commons Dining Room

8:00 am – 8:30 am

Welcome, Introductions, and Workshop Overview
Room 151, Instructional West Building

Greeting and Introductions

Bruce Myers, ELI

Opening Remarks

Benita Best-Wong, EPA

Workshop Overview

Adam Schempp & Sandra Nichols, ELI

8:30 am – 10:00 am

Session #1
Gaps and Barriers in Law and Policy (Part I): The Divide between State NPS and TMDL Programs and their Respective Water Quality Objectives
Room 151, Instructional West Building

Facilitator
Adam Schempp, ELI

Session Coordinator
Helen Bresler, WA

Panel Presentations and Q&A

**(1) An Integrated Approach to Improving Water Quality—
Indiana’s NPS/TMDL/IR Program**

Andrew Pelloso, IN

**(2) The Continuing Evolution of Stormwater and Watershed
Management in Florida**

Eric Livingston, FL

(3) Nonpoint Source Pollution and TMDLs in Virginia

Nesha Mizel, VA

Session #1 Outcomes:

- *Participants will be familiar with the water quality objectives of some State NPS Programs and how those relate to and are distinct from the objectives of State TMDL Programs.*
- *Participants will be familiar with how integrated TMDL and NPS Programs are working, as compared to when those programs are not integrated.*

Discussion Questions: Are NPS programs seeing the TMDL program as a way of implementing water quality objectives? Are TMDL programs seeing the NPS program as a way of implementing water quality objectives? If not, why not? Do NPS programs work to implement their programs through the TMDL program? Do TMDL programs work to implement their programs through the NPS program? What can TMDL programs do to better coordinate with NPS programs? Are gaps and barriers statutory or legal? At a guidance level? Institutional (*e.g.*, are they a matter of organizational structure or culture)?

10:00 am – 10:30 am

Morning Break

Refreshments Available in Instructional West Building

10:30 am – 12:00 pm

Session #2

Gaps and Barriers in Law and Policy (Part II): The Divide between Federal NPS and State TMDL Programs and their Respective Water Quality Objectives

Room 151, Instructional West Building

Facilitator

Sandra Nichols, ELI

Session Coordinator

Kathy Stecker, NC

Panel Presentations and Q&A

(1) NPS Program Perspectives

Dov Weitman, EPA

(2) NRCS Perspectives

Glenn Carpenter, NRCS

(3) Water Quality Management on National Forest System Lands

Joan Carlson, USFS

Session #2 Outcomes:

- *Participants will better understand the objectives of key federal programs relevant to nonpoint source pollution and how those differ from / are compatible with the objectives of State TMDL Programs.*
- *Participants will be familiar with the perspectives of some federal programs on how coordination with State TMDL Programs may be improved.*
- *Participants will have set the stage for continued discussion among State water quality agencies and federal agencies about how to strengthen coordination and relationships.*

Discussion Questions: How do federal agencies define success (of their respective missions/programs)? How do federal programs with NPS responsibility see their role in addressing water quality problems? Do they believe that they have a responsibility to meet water quality standards? If so, how are they monitoring or evaluating progress? How do they coordinate with States and State TMDL programs? If they do not look to TMDLs, what tools are they using? What will it take to make TMDL implementation a priority for a particular federal agency or program?

What mechanisms could be developed to improve coordination between State water quality agencies and NRCS? Between State agencies and USFS?

How do State TMDL programs work with these federal agencies? What is working well? What is the States' interest level in examining the status of the MoUs between the States and USFS, and in some instances updating them?

12:00 pm – 1:00 pm

Lunch
Commons Dining Room

1:00 pm – 2:30 pm

Session #3
Tricks of the Trade—Processes to Ensure NPS TMDLs Are Implemented (Part I): Among State Programs
Room 151, Instructional West Building

Facilitator
Bruce Myers, ELI

Session Coordinator
Chris Bellucci, CT

Panel Presentations and Q&A

(1) Implementing Kansas NPS-TMDLs: Tricks of the Trade

Tom Stiles, KS

(2) The Massachusetts Estuaries Project: A Collaborative Effort to Protect and Restore Southeastern Massachusetts Embayments

Rick Dunn, MA

(3) The Southwestern Perspective

Jason Sutter, AZ

Session #3 Outcomes:

- *Participants will learn how different States maximize resources for effective TMDL implementation by taking advantage of all water quality programs— including water quality standards, monitoring, 303(d), NPDES, and 319.*
- *Participants will learn about States' institutional structures and strategies for developing and implementing NPS TMDLs, including*
 - * *Collaboration*
 - * *Cost-sharing*
 - * *Optimal use of available regulatory authority*
- *Participants will learn how some State TMDL Programs are using relationships with other State agencies to better implement TMDLs that reach NPS pollution.*

Discussion Questions: How can TMDLs be written for ease of translation into 319 watershed plans (or other implementation mechanisms, such as through agricultural programs)? Would one of the features of a good TMDL be that it would include enough detailed information to allow enforcement (under existing authority)? For implementation efforts, to what extent do NPS programs rely on available TMDLs? Are TMDL programs partnering with local governments for implementation purposes? How common is water quality trading, and with what success? Are TMDL programs able to focus resources on geographic areas known to contribute to loading problems?

2:30 pm – 3:00 pm

Afternoon Break

Refreshments Available in Instructional West Building

3:00 pm – 4:30 pm

Session #4

Tricks of the Trade—Processes to Ensure NPS TMDLs Are Implemented (Part II): State-Federal Relationship

Room 151, Instructional West Building

Facilitator
Adam Schempp, ELI

Coordinator
Gene Foster, OR

Panel Presentations and Q&A

(1) TMDLs, Implementation, and Gatorade®: The Benefits of Knowing Your Customer

Dean Maraldo, EPA R5

(2) Implementing NPS TMDLs—Iowa’s New Strategy for Success

Allen Bonini, IA

(3) The Texas Perspective

Aaron Wendt, TX

Session #4 Outcomes:

- *Participants will learn how some State TMDL Programs are using relationships with federal agencies to improve the development and implementation of TMDLs that reach NPS pollution.*
- *Participants will be familiar with how State and federal agencies, including EPA, see the future of NPS pollution and the potential role of State TMDL Programs.*

Discussion Questions: What processes are used to guide implementation? For implementation efforts, do federal programs rely on available TMDLs? For implementation efforts, what agencies or funding mechanisms do you rely on? What actions can be taken at the State and federal levels to develop TMDLs and watershed plans that better support implementation?

4:30 pm – 5:00 pm

Day 1 Wrap-Up

Room 151, Instructional West Building

Facilitator
Sandra Nichols, ELI

EPA Remarks

John Goodin, EPA

5:00 pm – 6:00 pm

Open

6:00 pm – 7:00 pm

Dinner
Commons Dining Room

7:00 pm – 8:00 pm

Informal Evening Session
Effectively Leveraging and Prioritizing Existing Funds to Address
Waters Impaired by Nonpoint Sources of Pollution
Guest Lodge Lounge Area

Facilitator
Bruce Myers, ELI

Resource Persons
Benita Best-Wong, EPA
Stephanie vonFeck, EPA

Evening Session Outcome:

Participants will have learned about strategies for leveraging existing funds from federal programs and other sources. Specific focus will be placed on obstacles to and opportunities for targeting resources.

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| Thursday, May 28 | <i>TMDL Program in Transition: The NPS Problem Day 2</i> |
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6:30 am – 8:00 am Breakfast (Open)
Commons Dining Room

8:00 am – 9:00 am **Session #5**
**Best Practices in Developing and Implementing TMDLs that
Reach NPS Pollution (Part I)**
Room 151, Instructional West Building

Facilitator
Adam Schempp, ELI

Session Coordinator
Nicole Richmond, WI

Panel Presentations and Q&A

(1) The Wisconsin Perspective
Corinne Billings, WI

(2) It Takes More than a Good TMDL to Get to Implementation
Helen Bresler, WA

(3) NPS Regulation in California: Looking for the “Third Wave”
Sam Ziegler, EPA R9

9:00 am – 10:00 am **Session #6**
**Best Practices in Developing and Implementing TMDLs that
Reach NPS Pollution (Part II)**
Room 151, Instructional West Building

Facilitator
Sandra Nichols, ELI

Session Coordinator
Jason Sutter, AZ

Panel Presentations and Q&A

**(1) TMDL Implementation in Oregon: Leveraging Resources to
Meet Enforceable Requirements**
Mike Wolf, OR

(2) TMDL NPS Implementation in Maryland
Jim George, MD

(3) Regulating (Or Not) NPS in North Carolina
Kathy Stecker, NC

10:00 am – 10:30 am Morning Break
Refreshments Available in Instructional West Building

10:30 am – 11:00 am **Session #7**
Best Practices in Developing and Implementing TMDLs that Reach NPS Pollution (Part III): Plenary Discussion
Room 151, Instructional West Building

Facilitator
Sandra Nichols, ELI

Session #s 5-7 Outcomes:

- *Participants will be familiar with the foundation of various States' NPS implementation authority and how that authority has evolved.*
- *Participants will be familiar with how States have implemented NPS TMDLs, including the use of any available enforcement authorities and approaches.*

Discussion Questions: How have States developed their most successful approaches with respect to implementation and enforcement authority? What stumbling blocks were encountered, and how were they overcome (if they were)? How have proponents of strong implementation authority lined up the necessary support—and overcome political opposition? Do implementation requirements allow us to achieve water quality goals vis-à-vis NPS pollution? Can we accomplish water quality goals vis-à-vis NPS pollution without implementation requirements? For implementation efforts, do States rely on available TMDLs? How can TMDLs be written for ease of translation into 319 watershed plans (or other implementation mechanisms, such as through agricultural programs)?

11:00 am – 12:00 pm **Session #8**
Opportunities for Public Outreach and Enhancing Engagement between State TMDL Programs and Stakeholders
Room 151, Instructional West Building

Facilitator
Bruce Myers, ELI

Session Coordinator
Trinka Mount, OH

Panel Presentations and Q&A

(1) Missouri's Approach to Public Participation: Making Opportunities

Anne Peery, MO

(2) Implementing a TMDL through Stakeholder Involvement in Lake Hopatcong, New Jersey

Kim Cenzo, NJ

Session #8 Outcomes:

- *Participants will be familiar with a range of approaches employed by other States to improve public education and outreach—and better understand what is working, what is not, and what is still needed.*
- *Participants will have a sense of the pros and cons of employing these approaches in their States and an understanding of likely obstacles—and changes that will be needed to make the approaches work.*
- *Participants will be familiar with how some States have improved their relationships with local governments and other key stakeholders in the process of implementing TMDLs designed to address waters impaired by nonpoint sources of pollution.*
- *Participants will know which States (and State representatives) can serve as resources with respect to specific approaches.*

Discussion Questions: At what stage in the process are successful States and programs reaching out to stakeholders? How? With what approach, and to whom, exactly—a pre-existing group, a group created for this TMDL, or some other subset of people? What models are used? How, and to what extent? Does the State require a particular process (*e.g.*, by law, regulation, or guidance)? Is implementation more effective with public involvement? Are there opportunities for broader education on water quality objectives?

12:00 pm – 1:00 pm

Lunch
Commons Dining Room

1:00 pm – 2:00 pm

Session #9
A Blueprint for Success: Directing Workshop Output No. 1
Room 151, Instructional West Building

Facilitator
Adam Schempp, ELI

Session Coordinators
Helen Bresler, WA & Kim Cenzo, NJ

Session #9 Outcome:

Progress toward a “cookbook” of NPS strategies available to State TMDL Programs—a document that compiles tools (including, where possible, steps and stages) that States have used to more effectively implement their TMDL Programs with respect to non-point sources.

2:00 pm – 2:30 pm Afternoon Break
Refreshments Available in Instructional West Building

2:30 pm – 3:30 pm **Session #10**
A Blueprint for Success: Directing Workshop Output No. 2
Room 151, Instructional West Building

Facilitator
Sandra Nichols, ELI

Session Coordinators
Helen Bresler, WA & Kim Cenno, NJ

Session #10 Outcome:

Progress toward a document that captures specific ideas from participants (including consensus language, if any) for changes in TMDL Program policy aimed at improving efforts to address non-point source pollution.

3:30 pm – 4:00 pm **Workshop Wrap-Up**
Room 151, Instructional West Building

Facilitator
Bruce Myers, ELI

EPA Remarks

John Goodin, EPA

NCTC Check-Out & Departure

4:30 pm Departure of Shuttle Bus for
—Dulles Airport (participants with Thursday evening flights); and
—Holiday Inn Washington-Dulles (participants with Friday flights)