

# Downstream Considerations for TMDLs & Cross-Program Principles

Draft

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# Downstream Protection Issues in TMDLs

- ❑ **Neighboring jurisdictions may have significantly different WQS**
  - Downstream or adjacent waters may have more sensitive uses and/or more stringent criteria
- ❑ **303(d) listing and pollutant sources may vary across jurisdictions**
  - Water may be impaired in the downstream jurisdiction but not upstream
- ❑ **Upstream and downstream considerations have implications for TMDLs**
  - Upstream jurisdictions may use all of the assimilative capacity available to the downstream state/jurisdiction
  - Downstream states lacks authority to set binding allocations for an upstream state
  - States may have difficulty establishing equitable and achievable allocations
- ❑ **Several high-profile TMDLs highlight downstream protection challenges, e.g., Spokane River**
  - Critical impairment is in a reservoir 62 miles downstream of WA-ID border
  - Tribal waters below reservoir have more stringent WQS
  - Key questions: What boundary load should be assumed for upstream state? At what point downstream should contributions from the upstream state be considered? How should more stringent tribal standards be considered?

# Draft Cross-Program Principles for Downstream Protection - Overview

- ❑ **States, tribes and EPA share responsibility for protecting shared water resources**
  - Abide by regulations and guidance on protection of downstream & adjacent waters
  - Strive for consistent water quality standards
  - Protect the most sensitive use(s)
  - Encourage downstream protection provisions in water quality standards packages
  - Ensure downstream impacts are evaluated by EPA, and that EPA provides guidance to states and tribes
  
- ❑ **Taking a watershed-wide approach will best reflect collective goals across jurisdictions**
  - Provide for efficiencies in permitting, TMDLs, and water quality standards using a holistic approach
  - Facilitate development of equitable allocations and permit limits
  - Consider downstream impacts as far downstream as impacts are observed or expected

# Draft Cross-Program Draft Principles for Downstream Protection - Overview

- ❑ **Communication and coordination among jurisdictions and agencies regarding shared waterbodies is critical**
  - Communicate early and across programs when developing standards, 303(d) lists, TMDLs and permits
  - Coordinate development of 303(d) lists and TMDLs schedules between jurisdictions
  - Share up-to-date information on water quality standards and pending changes
  - Provide that EPA facilitates communication and helps to resolve conflicts
  - Ensure adequate communication with external stakeholders in affected jurisdictions
  - Be aware of environmental justice considerations
  
- ❑ **Seek appropriate pollutant reductions from both point and nonpoint sources throughout a shared water resource**
  - Include reasonable assurance in TMDLs that nonpoint source control measures will achieve expected reductions
  - Provide adequate documentation of reasonable assurance, and evaluate reasonable assurance in EPA review of TMDLs
  - Consider water quality trading between sources to achieve water quality goals, including point-nonpoint source trading