

Clean Water Act 303(d) Listing of Impaired Streams Legal Implications

Before the
Senate Committee on Agriculture, Forestry, and Economic Development
And the
House Committee on Agriculture, Forestry, and Economic Development
Meeting Jointly -- March 29, 2016

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What Are Water Quality Standards?

(APC&EC Regulation No. 2)

Water Quality Standards Have Two Basic Components

- Designated Uses
- Criteria to Protect Designated Uses

Typical Designated Uses

Drinking Water, Agriculture, Industry, Fishery
Primary Recreation. Secondary Recreation,
Extraordinary Resource Waters

Two Types of Criteria

- Numeric
 - Minimum: e.g., at least 2.0 mg/L Dissolved Oxygen, or
 - Maximum: e.g, no more than 20 µg/L selenium, or
 - Range: e.g., pH 6.0 - 9.0, no change greater than 1.0 in 24 hours
- Narrative: e.g., No excess nutrients

Clean Water Act Program Overview

Adopt Water Quality Standards

33 U.S.C. §§ 1313(a) & (c); 40 CFR § 130.3

Monitor Waterbodies

33 U.S.C. § 1256(e); 40 CFR § 130.4

Assess Monitoring Data

33 U.S.C. §§ 1313(d) & 1315(b); 40 CFR §§ 130.7 -130.8

Report Assessment Results

33 U.S.C. §§ 1313(d) & 1315(b); 40 CFR §§ 130.7 -130.8

Address Impaired Waterbodies

33 U.S.C. §§ 1313(d) & 1315(b); 40 CFR §§ 130.7 -130.8

Address Impairment

Typically a TMDL is Prepared for Each Impaired Segment

- Considers all Point Sources and Non Point Sources
- Computes Total Maximum Daily Load
 1. Wasteload Allocation for Point Sources; plus
 2. Load Allocation for Non Point Sources; and
 3. Margin of Safety

Enforcement of Total Maximum Daily Load

- Permit Limits for Point Sources
- Implementation for Non Point Sources

Reasonable Assurance

Address Impairment (continued)

Alternatives to Development of a TMDL

Non Point Source Issues

- Legal Authority to Consider Non Point Sources
- No Direct Permit Program
- Chesapeake Bay Experience

Resource Issues

- Adequacy & Accuracy of Data Needed
- Adequacy of Funding

EPA Review & Public Participation