

(3) Waterbodies identified in this subsection must be given a higher priority unless you explain why a different priority is appropriate.

(e) When identifying and scheduling your waterbodies for TMDL establishment, you may also consider the presence of sensitive aquatic species and other factors such as the historical, cultural, economic and aesthetic uses of the waterbody. You may consider other factors in prioritizing your schedule, including the value and vulnerability of particular waterbodies; the recreational, economic, and aesthetic importance of particular waterbodies; TMDL complexity; the degree of public interest and support; State, Territorial and authorized Tribal policies and priorities; national policies and priorities; or the efficiencies that might result from coordinating the establishment of TMDLs for multiple waterbodies located in the same watershed. If you are using a rotating basin approach, you may take that approach into account when prioritizing waterbodies on your schedule because of the inherent efficiencies of such an approach.

(f) If you consider other factors, you should identify each factor and explain how you used each factor in prioritizing your schedule.

#### § 130.29 Can you modify your list?

(a) You may modify your list at times other than those required by § 130.30, in accordance with this section. If you modify your list and prioritized schedule, you must submit your list to EPA as a modification to your list under this section and follow the public participation requirements of § 130.36, except that such requirements shall apply only to waterbodies and issues addressed by the modification. The requirements of subsections (b), (c), (d), and (e) of this section apply to lists submitted under § 130.30(a) or at any other time.

(b) You must keep each impaired waterbody on your list for a particular pollutant until it is attaining and maintaining applicable water quality standards for that pollutant.

(c) You may remove a listed waterbody for a particular pollutant if new data or information indicate that

the waterbody is attaining and maintaining the applicable water quality standards for that pollutant.

(d) You may add a waterbody to your list if you have data or information indicating that it is impaired.

(e) You may modify your prioritized schedule for establishing TMDLs in accordance with § 130.28 based on new information provided that the modification does not reduce the number of TMDLs scheduled for completion during the first four years of the current approved schedule.

(f) EPA must issue an order approving or disapproving the modification of your list or prioritized schedule in accordance with § 130.30(b).

(g) EPA may also issue an order modifying a list consistent with the provisions of paragraphs (c), (d) and (e) of this section, after providing notice and an opportunity for public comment.

#### § 130.30 When must you submit your list of impaired waterbodies to EPA and what will EPA do with it?

(a) You must submit your list of impaired waterbodies to EPA by April 1 of every fourth year, beginning in the year 2002.

(b) EPA must:

(1) Issue an order approving or disapproving your list or modification of your list, within 30 days of receipt, in whole or in part if it is not consistent with the requirements of §§ 130.25 through 130.29.

(2) By order, within 30 days of disapproval, issue a new list consistent with §§ 130.25 through 130.29 if EPA disapproves or partially disapproves your list or modification of your list.

(3) Publish the order required by paragraph (b)(2) of this section in the FEDERAL REGISTER and a general circulation newspaper in your State, Territory, or where your Tribe is located and request public comment for at least 30 days.

(4) Issue a subsequent order revising the new list after the close of the public comment period, as appropriate, if EPA revises its initial order required by paragraph (b)(2) of this section based on public comment.

(5) Send you a copy of its order(s).

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(6) Establish a list of impaired waterbodies for your State, Territory, or authorized Tribe consistent with §§ 130.25 through 130.29 if you fail to do so by April 1 of every fourth year.

(c) EPA may establish lists of waterbodies that do not attain and maintain Federal water quality standards.

(d) You must incorporate into your water quality management plan those portions of your list that EPA approves or establishes.

### ESTABLISHMENT AND EPA REVIEW OF TMDLS

#### § 130.31 Which waterbodies need TMDLs?

(a) You must establish TMDLs for all waterbodies and pollutant combinations on Part 1 of your list in accordance with your approved schedule and submit the TMDLs to EPA.

(b) You do not need to establish TMDLs for waterbodies on Parts 2, 3, and 4 of your list.

#### § 130.32 What are the minimum elements of a TMDL submitted to EPA?

(a) A TMDL is a written, quantitative plan and analysis for attaining and maintaining water quality standards in all seasons for a specific waterbody and pollutant. TMDLs may be established on a coordinated basis for a group of waterbodies in a watershed. A TMDL provides the opportunity to compare relative contributions of pollutants from all sources and consider technical and economic trade-offs between point and nonpoint sources.

(b) You must include the following minimum elements in any TMDL submitted to EPA:

(1) The name and geographic location, as required by § 130.27(b)(3), of the impaired waterbody for which the TMDL is being established and, to the extent known, the names and geographic locations of the waterbodies upstream of the impaired waterbody that contribute significant amounts of the pollutant for which the TMDL is being established;

(2) Identification of the pollutant and the applicable water quality standard

for which the TMDL is being established;

(3) Quantification of the pollutant load that may be present in the waterbody and still ensure attainment and maintenance of water quality standards;

(4) Quantification of the amount or degree by which the current pollutant load in the waterbody, including the pollutant load from upstream sources that is being accounted for as background loading, deviates from the pollutant load needed to attain and maintain water quality standards;

(5) Identification of source categories, source subcategories, or individual sources of the pollutant consistent with the definitions of load and wasteload allocation in §§ 130.2(f) and (g), respectively, for which the wasteload allocations and load allocations are being established;

(6) Wasteload allocations assigned to point sources permitted under section 402 of the Clean Water Act discharging the pollutant for which the TMDL is being established that will, when implemented in conjunction with assigned load allocations, if any, result in the attainment and maintenance of water quality standards in the waterbody. Wasteload allocations that reflect pollutant load reductions for point sources needed to ensure that the waterbody attains and maintains water quality standards must be expressed as individual wasteload allocations for each source. Wasteload allocations that do not reflect pollutant load reductions from point sources needed for the waterbody to attain and maintain water quality standards may be expressed as an individual wasteload allocation for a source or may be included within a wasteload allocation for a category or subcategory of sources. Wasteload allocations for sources subject to a specified general permit, regardless of whether they reflect pollutant reductions, may be allotted to categories of sources. You should submit supporting technical analyses demonstrating that wasteload allocations, when implemented in conjunction with necessary load allocations, will result in the attainment and maintenance of