

and continuing certifications for approved Water Quality Management (WQM) plans developed under sections 208 and 303 of the Act.

(b) Planning and management activities undertaken prior to February 11, 1985 are governed by the requirements of the regulations in effect at the time of the last grant award.

[50 FR 1779, Jan. 11, 1985, as amended at 54 FR 14359, Apr. 11, 1989; 59 FR 13817, Mar. 23, 1994]

EFFECTIVE DATE NOTE: At 65 FR 43662, July 13, 2000, § 130.1 was amended by revising paragraph (a), effective 30 days after the date that Congress allows EPA to implement this regulation. At 66 FR 53048, Oct. 18, 2001 this amendment was made effective April 30, 2003. For the convenience of the user, the revised text is set forth as follows:

**§ 130.1 Applicability.**

(a) This part applies to all State, eligible Indian Tribe, interstate, areawide and regional and local CWA water quality planning and management activities undertaken on or after February 11, 1985 including all updates and continuing certifications for approved Water Quality Management plans developed under sections 208 and 303 of the Act.

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**§ 130.2 Definitions.**

(a) *The Act.* The Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*

(b) *Indian Tribe.* Any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.

(c) *Pollution.* The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(d) *Water quality standards (WQS).* Provisions of State or Federal law which consist of a designated use or uses for the waters of the United States and water quality criteria for such waters based upon such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water and serve the purposes of the Act.

(e) *Load or loading.* An amount of matter or thermal energy that is introduced into a receiving water; to introduce matter or thermal energy into a receiving water. Loading may be either

man-caused (pollutant loading) or natural (natural background loading).

(f) *Loading capacity.* The greatest amount of loading that a water can receive without violating water quality standards.

(g) *Load allocation (LA).* The portion of a receiving water's loading capacity that is attributed either to one of its existing or future nonpoint sources of pollution or to natural background sources. Load allocations are best estimates of the loading, which may range from reasonably accurate estimates to gross allotments, depending on the availability of data and appropriate techniques for predicting the loading. Wherever possible, natural and nonpoint source loads should be distinguished.

(h) *Wasteload allocation (WLA).* The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. WLAs constitute a type of water quality-based effluent limitation.

(i) *Total maximum daily load (TMDL).* The sum of the individual WLAs for point sources and LAs for nonpoint sources and natural background. If a receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. If Best Management Practices (BMPs) or other nonpoint source pollution controls make more stringent load allocations practicable, then wasteload allocations can be made less stringent. Thus, the TMDL process provides for nonpoint source control tradeoffs.

(j) *Water quality limited segment.* Any segment where it is known that water quality does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards, even after the application of the technology-based effluent limitations required by sections 301(b) and 306 of the Act.

(k) *Water quality management (WQM) plan.* A State or areawide waste treatment management plan developed and

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updated in accordance with the provisions of sections 205(j), 208 and 303 of the Act and this regulation.

(l) *Areawide agency*. An agency designated under section 208 of the Act, which has responsibilities for WQM planning within a specified area of a State.

(m) *Best Management Practice (BMP)*. Methods, measures or practices selected by an agency to meet its nonpoint source control needs. BMPs include but are not limited to structural and nonstructural controls and operation and maintenance procedures. BMPs can be applied before, during and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters.

(n) *Designated management agency (DMA)*. An agency identified by a WQM plan and designated by the Governor to implement specific control recommendations.

[50 FR 1779, Jan. 11, 1985, as amended at 54 FR 14359, Apr. 11, 1989]

EFFECTIVE DATE NOTE: At 65 FR 43662, July 13, 2000, § 130.2 was amended by revising paragraphs (c) through (j) and (m), and by adding paragraphs (o) through (r), effective 30 days after the date that Congress allows EPA to implement this regulation. At 66 FR 53048, Oct. 18, 2001 this amendment was made effective April 30, 2003. For the convenience of the user, the revised and added text is set forth as follows:

### § 130.2 Definitions.

\* \* \* \* \*

(c) *Pollution*. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water. (See Clean Water Act section 502(19).)

(d) *Pollutant*. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. This term does not mean: "sewage from vessels" within the meaning of section 312 of the Clean Water Act; or water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of

the State in which the well is located, and if the State determines that such injection or disposal will not result in the degradation of ground or surface water resources. (See Clean Water Act section 502(6).)

(e) *Load or loading*. An amount of matter or thermal energy that is introduced into a receiving water; to introduce matter or thermal energy into a receiving water. Loading of pollutants may be either man-caused or natural (natural background loading).

(f) *Load allocation*. The portion of a TMDL's pollutant load allocated to a nonpoint source, storm water source for which a National Pollutant Discharge Elimination System (NPDES) permit is not required, atmospheric deposition, ground water, or background source of pollutants.

(g) *Wasteload allocation*. The portion of a TMDL's pollutant load allocated to a point source of a pollutant for which an NPDES permit is required. For waterbodies impaired by both point and nonpoint sources, wasteload allocations may reflect anticipated or expected reductions of pollutants from other sources if those anticipated or expected reductions are supported by reasonable assurance that they will occur.

(h) *Total maximum daily load (TMDL)*. 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. TMDLs must be established for waterbodies on Part 1 of the list of impaired waterbodies and must include the following eleven elements:

- (1) The name and geographic location of the impaired waterbody;
- (2) Identification of the pollutant and the applicable water quality standard;
- (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;
- (6) Wasteload allocations;
- (7) Load allocations;
- (8) A margin of safety;
- (9) Consideration of seasonal variations;
- (10) Allowance for reasonably foreseeable increases in pollutant loads including future growth; and
- (11) An implementation plan.

(i) *Total Maximum Daily Thermal Load (TMDTL)*. A TMDTL is a TMDL for impaired waterbodies receiving a thermal discharge.

(j) *Impaired waterbody.* Any waterbody of the United States that does not attain and maintain water quality standards (as defined in 40 CFR part 131) throughout the waterbody due to an individual pollutant, multiple pollutants, or other causes of pollution, including any waterbody for which biological information indicates that it does not attain and maintain water quality standards. Where a waterbody receives a thermal discharge from one or more point sources, impaired means that the waterbody does not have or maintain a balanced indigenous population of shellfish, fish, and wildlife.

\* \* \* \* \*

(m) *Management measures.* Best practical and economically achievable measures to control the addition of pollutants to waters of the United States through the application of nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, best management practices, or other alternatives.

\* \* \* \* \*

(o) *Thermal discharge.* The discharge of the pollutant heat from a point source that is required to have an NPDES permit.

(p) *Reasonable assurance.* Reasonable assurance means a demonstration that TMDLs will be implemented through regulatory or voluntary actions, including management measures or other controls, by Federal, State or local governments, authorized Tribes, or individuals.

(1) For point sources regulated under section 402 of the Clean Water Act, the demonstration of reasonable assurance must identify procedures that ensure that NPDES permits will be issued, reissued, or revised as expeditiously as practicable to implement applicable TMDL wasteload allocations for point sources.

(2) For nonpoint sources, storm water sources for which an NPDES permit is not required, atmospheric deposition, ground water or background sources of a pollutant, the demonstration of reasonable assurance must show that management measures or other control actions to implement the load allocations contained in each TMDL meet the following four-part test: they specifically apply to the pollutant(s) and the waterbody for which the TMDL is being established; they will be implemented as expeditiously as practicable; they will be accomplished through reliable and effective delivery mechanisms; and they will be supported by adequate water quality funding.

(i) Adequate water quality funding means that the State, Territory, or authorized Tribe has allocated existing water quality funds from any source to the implementation of the TMDL load allocations to the

fullest extent practicable and in a manner consistent with the effective operation of its clean water program. In the event that existing funding is not adequate to fully implement the TMDL load allocations, you may satisfy the funding requirement of reasonable assurance by including an explanation of when adequate funds will become available and the schedule by which these funds will be used to implement the TMDL load allocations. When EPA establishes a TMDL, EPA must show there is adequate funding. It may do so by conditioning Clean Water Act grants to the fullest extent practicable and in a manner consistent with effective operation of other Clean Water Act programs.

(ii) Voluntary and incentive-based actions, or existing programs, procedures or authorities are acceptable means of demonstrating reasonable assurance if they satisfy the four-part test. Examples of voluntary and incentive-based actions include: State, Territorial, or authorized Tribal programs to audit implementation of agricultural or forestry best management practices; memoranda of understanding between States, Territories, authorized Tribes, and organizations representing categories, subcategories, or individual sources; or State-, Territory-, or authorized Tribe-approved programs for categories, subcategories or individual sources to ensure effectiveness of best management practices.

(iii) Examples of existing programs, procedures or authorities that may be reliable delivery mechanisms include State, Territorial, and authorized Tribal programs approved by EPA under section 319 of the Clean Water Act; participation in existing United States Department of Agriculture conservation or water quality protection programs; participation in existing programs under the Coastal Zone Act Reauthorization Amendments; regulations; local ordinances; performance bonds; contracts; cost-share agreements; memoranda of understanding; site-specific or watershed-specific voluntary actions; and compliance audits of best management practices.

(q) *Waterbody.* A geographically defined portion of navigable waters, waters of the contiguous zone, and ocean waters under the jurisdiction of the United States, made up of one or more of the segments of rivers, streams, lakes, wetlands, coastal waters and ocean waters. Identifications of waterbodies should be consistent with the way in which segments are described in State, Territorial, or authorized Tribal water quality standards.

(r) *List of Impaired Waterbodies or "List."* The list of all impaired waterbodies submitted by a State, Territory, or authorized Tribe. This list consists of Parts 1, 2, 3, and 4 described in §130.27 and the prioritized schedule described in §130.28. Part 1 of the list consists of the identification of the

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waterbodies for which TMDLs must be established and a prioritized schedule for establishing TMDLs.

### § 130.3 Water quality standards.

A water quality standard (WQS) defines the water quality goals of a water body, or portion thereof, by designating the use or uses to be made of the water and by setting criteria necessary to protect the uses. States and EPA adopt WQS to protect public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act (CWA). *Serve the purposes of Act* (as defined in sections 101(a)(2) and 303(c) of the Act) means that WQS should, wherever attainable, provide water quality for the protection and propagation of fish, shellfish and wildlife and for recreation in and on the water and take into consideration their use and value for public water supplies, propagation of fish, shellfish, wildlife, recreation in and on the water, and agricultural, industrial and other purposes including navigation.

Such standards serve the dual purposes of establishing the water quality goals for a specific water body and serving as the regulatory basis for establishment of water quality-based treatment controls and strategies beyond the technology-based level of treatment required by sections 301(b) and 306 of the Act. States shall review and revise WQS in accordance with applicable regulations and, as appropriate, update their Water Quality Management (WQM) plans to reflect such revisions. Specific WQS requirements are found in 40 CFR part 131.

EFFECTIVE DATE NOTE: At 65 FR 43662, July 13, 2000, §130.3 was removed, effective 30 days after the date that Congress allows EPA to implement this regulation. At 66 FR 53048, Oct. 18, 2001 this amendment was made effective April 30, 2003.

### § 130.4 Water quality monitoring.

(a) In accordance with section 106(e)(1), States must establish appropriate monitoring methods and procedures (including biological monitoring) necessary to compile and analyze data on the quality of waters of the United States and, to the extent practicable, ground-waters. This requirement need

not be met by Indian Tribes. However, any monitoring and/or analysis activities undertaken by a Tribe must be performed in accordance with EPA's quality assurance/quality control guidance.

(b) The State's water monitoring program shall include collection and analysis of physical, chemical and biological data and quality assurance and control programs to assure scientifically valid data. The uses of these data include determining abatement and control priorities; developing and reviewing water quality standards, total maximum daily loads, wasteload allocations and load allocations; assessing compliance with National Pollutant Discharge Elimination System (NPDES) permits by dischargers; reporting information to the public through the section 305(b) report and reviewing site-specific monitoring efforts.

[50 FR 1779, Jan. 11, 1985, as amended at 54 FR 14359, Apr. 11, 1989]

EFFECTIVE DATE NOTE: At 65 FR 43662, July 13, 2000, §130.4 was redesignated as §130.10, and at 65 FR 43663, July 13, 2000, newly redesignated §130.10 was amended in paragraph (a) by adding a note to the paragraph, and by revising paragraph (b), effective 30 days after the date that Congress allows EPA to implement this regulation. At 66 FR 53048, Oct. 18, 2001 these amendments were made effective April 30, 2003. For the convenience of the user, the added and revised text is set forth as follows:

### § 130.10 Water quality monitoring.

(a) \* \* \*

NOTE TO PARAGRAPH (a): EPA recommends that you use "Policy and Program Requirements to Implement the Mandatory Quality Assurance Program", EPA Order 5360.1, April 3, 1984, as revised July 16, 1998, or subsequent revisions.

(b) The State's water monitoring program shall include collection and analysis of physical, chemical and biological data and quality assurance and control programs to assure scientifically valid data. The uses of these data include determining abatement and control priorities; developing and reviewing water quality standards, total maximum daily loads, wasteload allocations and load allocations; assessing compliance with National Pollutant Discharge Elimination System (NPDES) permits by dischargers; reporting information to the public through the