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Impaired and Distressed

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TMACOG Water Quality Council Meeting

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Impaired Water

- Impaired water = not meeting water quality standard
- State must submit list of impaired waters to USEPA every two years
 - In Ohio's Integrated Report
- Impaired water designation triggers obligation to do TMDL
- Clean Water Act § 303(d)

Total Maximum Daily Load

- Maximum amount of pollutant that can enter water daily without exceeding water quality standard
- Sum of wasteload allocations (point sources) and load allocations (nonpoint & background sources) plus margin of safety
- Incorporated into state's continuous planning process under CWA § 303(e)
 - Water Quality Management Plan

TMDL (continued)

- Is a very useful planning tool ; can justify state taking steps to reduce pollution loading from point and nonpoint sources
- Is not a silver bullet
 - Not much of a new legal stick
 - No federal money
 - No requirement to regulate nonpoint sources

State & Federal Roles Under CWA § 303

- State's duty to submit list of impaired waters and develop TMDL
- USEPA's duty to approve or disapprove list and TMDL
- If disapproves, USEPA must identify impaired waters and establish TMDL
 - 30 days
 - But still state continuing planning process

Distressed Watershed Rules

- Issued in 2010 per Ohio Agriculture Pollution Abatement program
 - Today, statute is Ohio Revised Code ch. 939 and rules in Ohio Administrative Code ch. 901
- Impose additional nutrient management requirements in watersheds designated as “in distress”

Designation as Distressed

- Factors considered by Director of Department of Agriculture include
 - Listed as impaired
 - Threat to public health
 - Evidence of algae capable of producing toxins
 - Threat of contaminants in water supplies
 - Threat of contaminants in primary contact water
- Needs consent by majority of Soil & Water Conservation Commission

Requirements in Distressed Watersheds

- Threshold amounts of manure
 - 350 tons or 100,000 gallons annually
- Nutrient Management Plan
 - E.g., volume, method and location of manure being applied
- Prohibitions on application of manure
 - Largely superseded by SB1