TMDLs and State DOTs

North Carolina Department of Transportation
Andy McDaniel
Agenda

► Why DOTs should be paying close attention to TMDLs
► How can DOTs position themselves to manage TMDL compliance
► Current and future challenges
What is a TMDL?

- Too Many Darn Lawyers
- Totally Misinformed Discharge Limit
- Terribly Misunderstood, Divisive, Litigious
TMDL

► Total Maximum Daily Load

► “Pollution budget” that should result in the achievement of water quality standards
TMDL = $\Sigma WLA + \Sigma LA + MOS$

- WLA – wasteload allocation (NPDES)
- LA – load allocation (nonpoint sources)
- MOS – margin of safety

Allocated Allowable Loads

- NPS - LA
- MS4 - WLA
- WWTP - WLA
Typical TMDL Process

1. Waters deemed to be Impaired by the State and placed on the 303(d) List
2. State agency develops the draft TMDL
3. Draft TMDL noticed for public comment
4. EPA approves the TMDL
What happens after the TMDL is developed?

TMDLs are not self implementing under the CWA:

► Point Sources
  - Permit conditions consistent with WLA are enforceable under CWA through NPDES

► Nonpoint sources
  - No federal regulatory enforcement program
  - Primarily voluntarily implemented through state/local NPS programs, 319 grants, etc.
Take home point #1:

DOTs are uniquely affected by TMDLs

NCDOT could be subject to hundreds of TMDLs
Take home point #2:

► DOTs should take a proactive leadership role in the TMDL process
Take home point #3:

► A clear, measurable pathway to TMDL compliance is essential

► Key to success: well written and manageable NPDES permit language
Current and Future Challenges

- Fair, reasonable, and proportionate TMDL implementation requirements
- Lack of TMDL appeal process for WLAs
- WLA credit using proprietary stormwater devices
- Treatment of co-mingled drainage and WLA credit
- Undefined compliance – impervious cover TMDLs